IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 27696 of 1995

Between:

Thakur Joginder Singh S/o. Sri Shanker Singh
R/o. H.No. 9-1-34/9, Langer House, Hyderabad.

..... PETITIONER

AND

1 The Mandal Revenue Officer
Rajender Nagar Revenue Mandal, Rangareddy/ District, A.P.
2 The Collector, Rangareddy Dist.
Lakidi Ka Pool, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or direction declaring the Notice issued under Lr.N o. C/734/1995 of the 1st respondent dated 23-11-1995, as illegal and void

Counsel for the Petitioner: MR.K.V.SATYANARAYANA RAO

Counsel for the Respondents.: GP FOR REVENUE

The Court made the following :

ORDER:

This writ petition is filed seeking to declare the Notice issued under Lr. No. C/734/1995 of the 1st respondent dated 23-11-1995, as illegal and void.

It has been contended in the affidavit filed in support of the writ petition that the petitioner is the owner of land admeasuring ac 1.3 guntas in S.No. 503/A situated at village Attapur under Rajendernagar Revenue Mandal, Ranga Reddi District, being purchased under an agreement of sales dated 9.11.1986 & 27.1.1989 and he has been in possession and enjoyment of the same. When some persons tried to grab this property, he filed a suit in O.S.No.198 of 1989 on the file of VI Asst. Judge, City Civil Court, Hyderabad for permanent injunction and obtained a decree on 31-10-1994. Subsequently, some Mulsims claimed this property as Muslim grave-yard and when they tried to encroach the same, he filed a criminal complaint. While so, when the first respondent issued the impugned show cause notice dt.23-11-1995 claiming that petitioner is in illegal occupation of the land, he submitted a reply dated 30-11-1995 but filed in the office of the first respondent on 2-12-1995. Till now no reply has been received.

It is the further case of the petitioner that in his reply dt.30.11.1995, he requested the first respondent to get the land demarcated by measuring the same, which is situated in Survey No.503/A at his expenses. But, the respondents, without measuring the land, cannot assert that he is in illegal possession of 20 sq. yards. Under these circumstances, the impugned notice is illegal because no enquiry, as

contemplated under the Land Encroachment Act, has been conducted. Hence, the writ petition.

It has been stated in the counter affidavit filed on behalf of the respondents that since the land in dispute is a government land, any agreement of sale relied on by the petitioner does not confer any title to him. As per the report of the Surveyor and as per the sketch, the petitioner in collusion with certain land grabbers unauthorisedly constructed six rooms and other walls on the Moosi river bed. As such the impugned notice dt.23-11-1995 was issued to the other encroachers along with the writ petitioner and for which the petitioner gave an application dt. 2-12-1995 and requested for demarcation of the land. The notice given to the petitioner is in accordance with Land Encroachment Act. Since, the petitioner is a land encroacher, he is not entitled to get any relief from the Court. As the petition is filed concealing all the facts, the same is liable to be dismissed.

Heard both sides.

Having heard on either side counsel and on perusal of the material available on record, it is clear that in pursuance of the impugned notice issued by the first respondent, the writ petitioner had submitted a reply dated 30-11-1995 and also a representation to measure and demarcate the land situated in Sy. No.503/A to an extent of Ac 1.3 guntas in dispute to arrive at a conclusion whether the petitioner is in illegal occupation of 20 sq. yards and for which necessary fee has to be paid by the petitioner. While admitting the writ petition, interim stay was granted in favour of the petitioner. In view of the assertion made in the affidavit filed in support of the petition to the above effect, it would suffice if liberty is given to the petitioner to make a fresh application for demarcating the disputed land by paying necessary fee afresh within a period of four weeks from the date of receipt of a copy of the order in the interest of both parties.

In the above facts and circumstances of the case, liberty is granted to the petitioner to make a fresh application to the authorities concerned for demarcating the land in dispute by paying necessary fee afresh, within a period of four(4) weeks from the date of receipt of a copy of the order and on such application, the concerned authorities are directed to demarcate the same, in the interest of both the parties, within a period of eight(8) weeks thereafter. It is made clear that till passing of such orders, no coercive steps should be taken by the respondents.

With the above observations, the writ petition is disposed of. No order as to costs.

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17th February 2005

Kvrk

To

1 The Mandal Revenue Officer
Rajender Nagar Revenue Mandal, Rangareddy District, A.P.
2 The Collector, Rangareddy Dist.
Lakidi Ka Pool, Hyderabad.

3 Two CCs to GP for Revenue, High Court Buildings, Hyderabad (OUT)

4. Two CD copies.

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

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